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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,291	08/20/2001	David L. Kinard	D-43502-01	5703

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EXAMINER

MADSEN, ROBERT A

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 05/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/933,291

Applicant(s)

KINARD ET AL

Examiner

Robert Madsen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-10 and 12-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-10 and 13-24 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date March 10, 2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. The response filed February 17, 2004 has been entered. Claims 2-4, 11 have been cancelled. Claims 1, 5-10, 12-24 remain pending in the application.

Claim Objections

2. Claim 12 is objected to because of the following informalities: It depends from cancelled claim 11. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 6-10, 14-18, 21, 22, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanfilippo et al. (US 6221411 B1) in view of Darnett (WO 9730909).

5. Regarding claims 1, 6-10, 14-18, 21, 22, Sanfilippo et al. teach a meat product, an absorbent pad, a tray, and a lid member over the product and tray sealed under less than 1% oxygen atmosphere as recited in claims 1, 6, 21, 22, (Abstract, Column 3, lines 20-45, Column 5, line 38 to Column 6, line 25). Sanfilippo et al. further teach vacuum packaging, as recited in claims 1, 7, and 22, may be used (Column 5, lines 55-62). Sanfilippo et al. also teach it is known to use foam trays as recited in claim 18 (Column 1, lines 14-20). Sanfilippo et al. are silent in teaching a particular structure of the soaker pad as recited in claims 1, 8-10, 14-17, 21.

6. Darnett teaches absorbent pads or soaker pads for meat packages that offer two main advantages over the prior art pads: absorbing the meat juice even when the meat tray is presented at an angle and preventing the extruding of super absorbent gel from the pad (Page 1, line 8 to Page 2, line 7, Page 10, lines 15-28). Darnett teaches the pad comprises an upper web comprises a flexible film such as nylon, or polyamide as recited in claims 8 and 9, which preferably includes microperforations but may be water impermeable as recited in claim 10, an absorbent including a paper layer and super absorbent in granular form as recited in claims 14 and 15, and a lower non-woven fiber web having a hydrophilic composition thereon (i.e. viscose) that draws liquid into the pad as recited in claims 1 and 21 wherein the upper and lower webs are either heat sealed or adhesively sealed as recited in claims 16 and 17 (Page 4, line 18 to Page 5, line 22, Page 6, line 29 to Page 7, line 15, Page 8, lines 11-18, Page 11, lines 29-34). Therefore, it would have been obvious to modify Sanfilippo et al. and include the absorbent pad of Darnett, which comprises an upper web comprises a flexible film such as nylon, or polyamide as recited in claims 8 and 9, which preferably includes microperforations but may be water impermeable as recited in claim 10, an absorbent including a super absorbent in granular form as recited in claims 14 and 15, and a lower non-woven fiber layer having a hydrophilic composition thereon (i.e. viscose) as recited in claims 1 and 21, wherein the upper and lower webs are either heat sealed or adhesively sealed as recited in claims 16 and 17, since Darnett teaches this pad is better than the prior art pads because it is able to sufficiently absorb a meat juice, even

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when the tray is presented at an angle and prevents the extruding of the super absorbent from the pad.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanfilippo et al. (US 6221411 B1) in view of Darnett (WO 9730909) as applied to claims 1,6-10,14-18,21,22, above, further in view of Wiles (GB 2296905 A).

8. Sanfilippo et al. teach a modified atmosphere of carbon dioxide that has a shelf life of 14 days and a display life (i.e. red in color) for 3 days (Column 3, lines 20-45),but is silent in teaching a modified atmosphere of 60-80% oxygen as recited in claim 18. Wiles teaches an improvement over the type of dual lid packaging (i.e. comprising an oxygen permeable layer under an oxygen impermeable layer) of Sanfilippo et al. in that fresh cuts of meats can be stored for about 9 days while the meat remains red in color by providing a 60-80% oxygen mixture in a single lid configuration. Wiles also teaches the type of gas selected depends on the type of meat stored in the package(Abstract, Page 4, lines 1-5, Page 1, line 13 to Page 2, line 17, Page 7, lines 4-15, Page 9, lines 20-26). Therefore, it would have been obvious to select a 60-80% oxygen atmosphere since Wiles teaches this type of atmosphere used for red meats this would (1) eliminate the need for two lid layers for red meat packaging and (2) provide an extended "red in color" shelf life for red meats.

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanfilippo et al. (US 6221411 B1) in view of Darnett (WO 9730909) as applied to claims 1,6-10,14-18,21,22, above, further in view of Miller et al. (US 4321997)

10. Modified Sanfilippo et al. is silent in teaching the absorbing layer includes both wood fluff and a layer of tissue paper. Miller also teaches an absorbent pad in combination with a meat tray and teaches it is conventionally known to use wood fluff as the absorbent layer and advantageous to combine it with a tissue layer to prevent wood fluff dust from exiting openings in the pad and contaminating the pad (Abstract, Column 3, line 50 to Column 4, line 20). Therefore, it would have been obvious to include an absorbent layer with both wood fluff and tissue paper since Miller teaches wood fluff is a known absorber and is preferably combined with tissue paper to prevent wood fluff dust from exiting the pad and contaminating the food.

11. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanfilippo et al. (US 6221411 B1) in view of Darnett (WO 9730909) as applied to claims 1,6-9,14-18,21,22, above, further in view of Bair (US 5135787) and LeKhac (US 4743244).

12. Modified Sanfilippo et al. teach hydrophobic fibers treated with hydrophilic compositions such as viscose that draw liquid into the pad, but are silent in teaching a hydrophilic composition comprising polysorbate, ethoxylated linear alcohol, fatty amine oxide, alkanolamide, and block copolymers of ethylene oxide or propylene oxide with dimethylsiloxamine that are coupled to polar groups.

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13. Bair also teaches an absorbent pad for a meat package wherein the outer web comprises non-woven polyester fibers with a wetting agent to impart hydrophilic character which include cationic, anionic, nonionic or amphoteric surfactants such that the outer layers expand to contain the super absorbent and better distribute the fluid over the pad to overcome any possible clogging of the pores in the outer web, as well as facilitate sealing (Abstract, Column 1, line 49 to Column 2, line 6, Column 4, lines 45 –Column 5, line 2). Blair includes 0.4% of such a wetting agent (Example).

14. LeKhac teaches enhancing the absorbing characteristics of polymers, which may be used in meat trays by adding a non-ionic surfactant, such as block co-polymers of ethylene oxides, including poly (oxyethylene) as recited in claim 19 (Column 5, lines 45 –54, Column 6, lines 23-62).

15. Therefore, it would have been obvious to select any cationic, anionic, nonionic, or amphoteric surfactant, such as nonionic block co-polymers of ethylene oxides, including poly (oxyethylene), for imparting a hydrophilic character to the non-woven polyester-based lower web of Sanfilippo et al. since this would avoid the problem of clogging of the pores that absorb the liquid by allowing the lower web to expand to contain and better distribute the fluid over the pad, in addition to provide a good sealing. It would have been further obvious to select between 0.1 to 10% since Blair teaches 0.4% is sufficient.

16. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanfilippo et al. (US 6221411 B1) in view of Darnett (WO 9730909).

17. Sanfilippo et al. teach placing both a meat product and an absorbent pad on a tray, placing a lid member over the product and tray, and evacuating the atmosphere from the product and support member as recited in claim 23, wherein a combination of both vacuum and modified atmosphere may be alternatively supplied, which would include supplying a modified atmosphere after evacuation before sealing as recited in claim 24 (Abstract, Column 3, lines 20-45, Column 5, line 38 to Column 6, line 25).

Sanfilippo et al. is silent in teaching the particular structure of the absorbent pad.

18. Darnett teaches absorbent pads or soaker pads for meat packages that offer two main advantages over the prior art pads: absorbing the meat juice even when the meat tray is presented at an angle and preventing the extruding of super absorbent gel from the pad (Page 1, line 8 to Page 2, line 7, Page 10, lines 15-28). Darnett teaches the pad comprises an upper web comprising a flexible film, an absorbent, and a lower non-woven fiber layer having a hydrophilic composition thereon (i.e. viscose) as recited in claim 23 wherein the upper and lower webs are either heat sealed or adhesively sealed together (Page 4, line 18 to Page 5, line 22, Page 6, line 29 to Page 7, line 15, Page 8, lines 11-18, Page 11, lines 29-34). Therefore, it would have been obvious to modify Sanfilippo et al. and include the absorbent pad of Darnett, which comprises an upper web comprising a flexible film, an absorbent, and a lower non-woven fiber layer having a hydrophilic composition thereon (i.e. viscose wherein the upper and lower webs are either heat sealed or adhesively sealed together as recited in claim, since Darnett teaches this pad is better than the prior art pads because it is able to sufficiently absorb

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an meat juice, even when the tray is presented at an angle and prevents the extruding of the super absorbent from the pad.

Response to Arguments

19. Applicant's arguments with the respect to the amended claim language and the rejections made in the office action mailed September 11, 2003 have been fully considered and are persuasive. Therefore, the rejections made in the office action mailed September 11, 2003 have has been withdrawn. However, upon further consideration of the amended claim language new grounds of rejection are made for the reasons set forth above.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

21. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (571) 272-1402. The examiner can normally be reached on 7:00AM-3:30PM M-F.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert Madsen
Examiner
Art Unit 1761



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